



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 9, 2009

Ms. Margo M. Kaiser
Staff Attorney, Open Records Unit
Texas Workforce Commission
101 East 15th Street
Austin, Texas 78778-0001

OR2009-00351

Dear Ms. Kaiser:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 332012 (TWC Tracking No. 081017-013).

The Texas Workforce Commission (the "commission") received a request for information pertaining to a specified claim of employment discrimination. You state that some of the requested information will be released. You claim that other responsive information is excepted from disclosure under sections 552.101, 552.111, and 552.137 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted representative sample of information.¹

We note that the submitted information was at issue in a previous ruling issued by this office, Open Records Letter No. 2008-11005 (2008). In that ruling, we concluded that the commission must withhold the marked information that relates to efforts at mediation or conciliation under section 552.101 of the Government Code in conjunction with section 21.207(b) of the Labor Code. We noted the requestor, as a party to the complaint, had a right of access to the remaining information pursuant to section 21.305 of the Labor

¹This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the commission to withhold any information that is substantially different from the submitted information. See Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

Code and section 819.92(a) of title 40 of the Texas Administrative Code. As we have no indication that the law, facts, and circumstances on which the prior ruling was based have changed, the commission must continue to rely on that ruling as a previous determination and withhold or release the requested information in accordance with Open Records Letter No. 2008-11005. *See* Open Records Decision No. 673 (2001) (governmental body may rely on previous determination when the records or information at issue are precisely the same records or information that were previously submitted to this office pursuant to section 552.301(e)(1)(D); the governmental body which received the request for the records or information is the same governmental body that previously requested and received a ruling from the attorney general; the prior ruling concluded that the precise records or information are or are not excepted from disclosure under the Act; and the law, facts, and circumstances on which the prior ruling was based have not changed since the issuance of the ruling).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3). If the governmental body does not file suit over this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'Emily Sitton', written in a cursive style.

Emily Sitton
Assistant Attorney General
Open Records Division

EBS/eeg

Ref: ID# 332012

Enc. Submitted documents

c: Requestor
(w/o enclosures)